

From: Wendy E. Greve
Sent: Sunday, March 17, 2019 4:23 PM
To: 'Russell Williams' <RWilliams@kksblaw.com>
Cc: Austin Smith <asmith@pffwv.com>; Jayne A. Hudnall <JHudnall@pffwv.com>; Tonia Comer <TComer@kksblaw.com>; Jayne A. Hudnall <JHudnall@pffwv.com>; Eric Buckner <ebuckner@kksblaw.com>
Subject: RE: Settle, Joshua M. v. Nathan Scott Stepp , Claim No. 501-590961 / 8143782871US:

Russell:

Whether or not you have claims that render the documents you are seeking in the SDT relevant and discoverable under Rule 26 is the issue. The fact that you don't have a claim against the WVSP for negligent hiring, supervision or retention begs the question as to how the documents you are seeking could be relevant. I do believe the entire subpoena seeks documents that are not relevant to your claims against the officer. If you believe that they are relevant to your claims against Trooper Stepp I invite you to discuss that with me.

Wendy



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From: Russell Williams <RWilliams@kksblaw.com>

Sent: Friday, March 15, 2019 4:26 PM

To: Wendy E. Greve <wgreve@pffwv.com>

Cc: Austin Smith <asmith@pffwv.com>; Jayne A. Hudnall <JHudnall@pffwv.com>; Tonia Comer <TComer@kksblaw.com>; Jayne A. Hudnall <JHudnall@pffwv.com>; Eric Buckner <ebuckner@kksblaw.com>

Subject: [EXTERNAL] RE: Settle, Joshua M. v. Nathan Scott Stepp , Claim No. 501-590961 / 8143782871US:

Wendy:

Whether or not the WVSP is a party is irrelevant. I am permitted to subpoena relevant documents from third-parties, which is exactly what I am doing here.

If you think certain document request to the WVSP Professional Standards Section are not relevant, please identify them by number so we can discuss. From your messages below, it sounds like your position is the entire subpoena is improper, which I disagree with.

Russell A. Williams, Esq.

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From: Wendy E. Greve <wgreve@pffwv.com>
Sent: Friday, March 15, 2019 1:38 PM
To: Russell Williams <RWilliams@kksblaw.com>
Cc: Austin Smith <asmith@pffwv.com>; Jayne A. Hudnall <JHudnall@pffwv.com>; Tonia Comer <TComer@kksblaw.com>; Jayne A. Hudnall <JHudnall@pffwv.com>; Eric Buckner <ebuckner@kksblaw.com>
Subject: RE: Settle, Joshua M. v. Nathan Scott Stepp , Claim No. 501-590961 / 8143782871US:

Russ:

The WVSP is not a party. The below response fails to articulate any relevancy to the claims against my client with respect to any of the items that you have requested from the WVSP.

I contacted you last week to discuss the impact of your client's conviction and we agreed to hold off on discovery while you reviewed your position. I have yet to receive any information from you regarding your position but per your representation that you wanted time I have held off on filing the motion to stay pending entry of the conviction order while you took the opportunity to review what had occurred during the criminal proceedings and the law addressing the effect of your client's conviction on his civil suit. While I did not receive any information as promised regarding your position I did receive a certificate of service noting that you have mailed additional discovery.

You have now issued a fourth set of discovery in a lawsuit claiming excessive force in an incident where your client has been convicted of attempting to disarm Trooper Stepp by intentionally grabbing and attempting to unholster his gun. The officer's response was to render three strikes resulting in a total of nine stitches. Deadly force was lawful under these facts. The WVSP is not a party but you have issued a SDT to it seeking, among other things and without reference to any date limitation, copies of Special Orders, Department Memorandum "referring or relating to Trooper Stepp, copies of all written employee notifications referring or relating to Trooper Stepp, copies of the annual statistical report from 2011 to present, copies of all "audio, video, and written transcripts of testimony during any administrative hearing referring or relating to Trooper Stepp. There are in fact 37 separate requests in your SDT. None of these appear relevant. I do not understand what you think is "legitimate" discovery.

This is my second written attempt to resolve a discovery dispute. Would you be available to discuss this in an attempt to resolve both the stay and the motion for protective order on Monday?

Wendy



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From: Russell Williams <RWilliams@kksblaw.com>
Sent: Friday, March 15, 2019 1:10 PM
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Subject: [EXTERNAL] RE: Settle, Joshua M. v. Nathan Scott Stepp , Claim No. 501-590961 / 8143782871US:

Wendy:

This case is about Trooper Stepp's use of excessive force and brutal beating of Plaintiff. How can you in good faith object to a subpoena to the WVSP Professional Standards Section seeking information regarding Trooper Stepp's use of force in the past, investigations by the Professional Standards Section into his conduct, and any resulting discipline Trooper Stepp has received (although unlikely considering the WVSP's abject failure to "police" its own)?

Your proposed motion is a frivolous attempt to quell legitimate discovery. File your motion if you must and will gladly respond. I will also ask for my attorneys' fees.

Russell A. Williams, Esq.

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From: Wendy E. Greve <wgreve@pffwv.com>
Sent: Friday, March 15, 2019 1:03 PM
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Cc: Austin Smith <asmith@pffwv.com>; Jayne A. Hudnall <JHudnall@pffwv.com>; Tonia Comer <TComer@kksblaw.com>; Jayne A. Hudnall <JHudnall@pffwv.com>
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I only have one and it is to the WVSP and it is ECF 27, 27-1 and 27-2



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From: Russell Williams <RWilliams@kksblaw.com>
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Subject: [EXTERNAL] RE: Settle, Joshua M. v. Nathan Scott Stepp , Claim No. 501-590961 / 8143782871US:

Are referencing our subpoena to the Professional Standards Section of the WVSP?

Russell A. Williams, Esq.

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Sent: Friday, March 15, 2019 12:56 PM
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Subject: RE: Settle, Joshua M. v. Nathan Scott Stepp , Claim No. 501-590961 / 8143782871US:

Russ:

The complaints regarding the SDT to the WVSP are similar. The scope of your subpoena is too broad as the request for production to the WVSP has no relevancy to your client's claims against Trooper Settle. I am happy to discuss any argument that you believe supports a claim that any of the documents requested are discoverable. I will await to hear from you before filing our motion for protective order on March 19, 2019.

Wendy



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Subject: [EXTERNAL] RE: Settle, Joshua M. v. Nathan Scott Stepp , Claim No. 501-590961 / 8143782871US:

Wendy:

I will get a letter out to you by the end of the week regarding proceeding in this case.

As far as the subpoena goes, I don't see any legitimate grounds for you to move to quash the subpoena. But in any event, the documents have already been produced. See attached.

Russell A. Williams, Esq.

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Subject: Settle, Joshua M. v. Nathan Scott Stepp , Claim No. 501-590961 / 8143782871US:

Russell:

I hope the soccer tournament went well and the trip was successful. I just wanted to touch base with you regarding proceeding in this case. We are waiting to file a Motion for Protective Order seeking an order quashing the subpoena to the WV Division of Justice and Community Service Production of Records. If it makes more sense to postpone the SDT date (and advise the DOJ) please let me know today if possible.

Thank you –

Wendy



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